

Chapter 17.33 Connection to the Public Sewer

(Chapter replaced by Ordinance XXXXXX, effective July 1, 2024.)

17.33.010 Intent.

The intent of this Chapter is to support the City's responsibility to protect public health, water quality, and the environment by identifying the general circumstances and site conditions that will require a property owner to connect their property, structure, use or activity to the public sewer as that term is defined in Chapter 17.04. This chapter specifically applies to connections from properties, structures, uses or activities with plumbing facilities that require wastewater disposal to the public sewer.

17.33.020 Definitions.

The following definitions and the definitions of Chapter 17.04 and of Chapter 17.32 apply to this Chapter:

A. Director means the Director of the Bureau of Environmental Services or the Director's designee.

B. Nonconforming private sewer line means a sewer pipe in the public right-of-way (ROW), typically running parallel to the curb or other longitudinal edge, that has not been adopted or accepted as a public improvement by the BES Chief Engineer.

C. Nonconforming sewer means a private sewer system that accesses the public sewer by any of the following:

1. A sewer lateral draining more than one property that conveys the discharge to the public sewer in the ROW or in a public sewer easement, also known as a "party" sewer. Exception: This does not apply to Middle Housing Land Division (MHLD) shared sewers that meet all City requirements and standards.

EXHIBIT B

2. A sewer lateral crossing one or more properties without the benefit of a recorded easement that meets City standards.
3. A nonconforming private sewer line.
4. A sewer lateral in the public ROW or in a public sewer easement with an alignment or other physical characteristic contrary to the approved standards of the Sewer and Drainage Facilities Design Manual (SDFDM).

D. Onsite wastewater treatment system means any existing or proposed subsurface onsite wastewater treatment and dispersal system, as those terms are used in Oregon Administrative Rules Chapter 340, Divisions 71 and 73.

17.33.030 Sewer Connections.

A property with any of the following circumstances and site conditions must be connected to the public separate sanitary or combined sewer system, which are both considered sanitary sewers for the purposes of this Chapter. All connections to the sanitary sewer must be along an approved route-of-service as described in Chapter 17.32 and BES Administrative Rule ENB-4.07, and comply with City design, construction, maintenance, and operational standards.

A. Plumbing fixtures connected. As a general policy, all plumbing fixtures from which wastewater is or may be discharged must connect to and discharge into the public sewer system. Exceptions to this requirement include situations where it can be demonstrated to the satisfaction of the City that an onsite wastewater treatment system or other alternative means of sewage disposal can otherwise be lawfully permitted.

B. Public sewer is or becomes available. An existing structure served by a lawfully-permitted onsite wastewater treatment system may be required to connect at the discretion of the City, in consultation with the sanitarian, when a public sewer system becomes available. In general, any expansion, remodel, alteration, or change in use that increases the capacity requirements of the onsite wastewater treatment system will require the property owner to abandon the onsite system and connect to public sewer system.

EXHIBIT B

C. Nonconforming sewer. A property using a nonconforming sewer must abandon the nonconforming connection or convert to a conforming sewer connection when noticed by the City. Requirements for converting nonconforming sewer connections are established in BES Administrative Rule ENB-4.27 (BES Nonconforming Sewer Conversion Program).

D. Source Control Manual. A property with structures or activities that are described in Administrative Rule ENB-4.26 (BES Source Control Manual) and that require drainage to the sanitary sewer must connect to the public sewer when required as a condition of a development permit or when the City notifies the property owner thereof.

E. Threat to public health, water quality, or the environment. The City may require a property owner to connect their property, structure, or activity to the public sewer system pursuant to its jurisdictional authority to protect public health, water quality, and the environment.

17.33.040 Financial Assistance for Required Sewer Connections.

BES may provide financial assistance to eligible property owners to assist with sewer connections and to prevent disruption of service. Financial assistance in the form of loans and payment deferrals is available as described in Administrative Rule ENB-4.28 (BES Financial Assistance Program).

17.33.050 Inspections.

A. Right of entry. To the extent permitted by law, BES may enter all private and public premises at any time for the purpose of inspecting for potential violations, connections, or for any other lawful purpose. This authorization includes but is not limited to inspection surveying, sampling, testing, photographic documentation, record examination, copying, and installation of devices. Entry may not be conditioned upon BES representatives signing any type of confirmation, release, consent, acknowledgement, or agreement.

EXHIBIT B

B. Entry protocols.

- 1.** The BES representative will present a City photo identification card at the time of entry.
- 2.** The BES representative will comply with reasonable, routine, safety and sanitary requirements of the facility or site as provided by the facility operator at the time of entry. The facility operator must provide the BES representative with any facility-specific safety protective equipment necessary for entry.
- 3.** City staff executing an abatement order may enter the property to the extent allowed by law.

17.33.060 Declaration of Nuisance and Abatement Orders.

Any property not connected to the public sewer system as required under this Chapter is hereby declared a nuisance and subject to abatement or correction by the City. The Director is authorized to take actions to abate a nuisance, including work in public rights-of-way or easements, authority to order remediation on private or public property, and the expenditure of City funds. If the nuisance described in the notice issued to the property owner is not remedied or evidence is not provided establishing that such nuisance does not exist, the City may request an abatement order from the Code Hearings Officer. The order will include authorization for the City to access private or public property for nuisance abatement purposes. Costs of nuisance abatement incurred by the City may be assessed as a lien against the property in accordance with the provisions of Chapter 22.06.

17.33.070 Enforcement.

A. Violations. It is a violation for any person or responsible party to fail to comply with the requirements of this Chapter or associated rules. Each day a violation occurs or continues may be considered a separate violation. BES may hold each such person or responsible party solely responsible for complying with BES enforcement actions. Violations of this Chapter or associated rules include, but are not limited to:

EXHIBIT B

1. Failure to make a sewer connection in compliance with the requirements of the Source Control Manual or of this Chapter;
2. Failure to convert or abandon a nonconforming sewer connection;
3. Failure to maintain an existing onsite wastewater treatment system;
4. Any action to obstruct, impede, or interfere with any officer, employee, contractor, agent, or authorized representative of the City who is engaged in work under an abatement order issued by the Code Hearings Officer;
5. Failure to comply with a written order of the Director, made under the authority of this Chapter, within the specified time; and
6. Failure to comply with enforcement actions as identified in Administrative Rule ENB-4.15 (BES Enforcement Program).

B. Enforcement tools. BES may use any or all of the following tools to enforce this Chapter or associated administrative rules: Notice of investigation, warning notice, notice of violation, compliance order, requirement to obtain a permit, notice of termination, withholding of City permits, withholding of City services, violation or nuisance abatement, legal action, criminal case referral, or referral to other regulatory agencies. BES enforcement actions are described in program-specific administrative rules and the BES Enforcement Program administrative rules (PPD item ENB-4.15).

C. Civil penalties. A person or responsible party violating this Chapter or associated rules may be assessed civil penalties of up to \$10,000 per day per violation according to program-specific administrative rules and the BES Enforcement Program Administrative Rules (PPD item ENB-4.15). Penalties and other charges will accrue interest from the date of initial City notice assessing the penalty until the penalty is paid in full.

D. Cost recovery. The Director may recover from the person or responsible party all reasonable costs incurred by the City that are attributable to or associated with violations of this Chapter or associated administrative rules per PPD item ENB-4.15.

EXHIBIT B

E. City summary abatement. To the extent permitted by law, the Director may recover from the person or persons responsible for the violation all costs incurred by the City to abate summarily the following:

1. A violation that is not remedied through required corrective actions;
2. A situation that poses an imminent danger to human health, public safety, or the environment; or
3. Continued noncompliance with the PCC or associated rules

F. Notice to responsible parties prior to summary abatement is not required. Following summary abatement, BES will notify all persons identified as having directed or benefitted from the violation. An error in the name of a property owner or address listed in the county assessment or taxation records will not affect the sufficiency of the notice. BES will bill each responsible party in order to recover the costs of the abatement.

G. Nothing in this Chapter is intended to impose liability on the City for any injury or damage resulting from the failure of any person to comply with the provisions of this Chapter.

17.33.080 Administrative Reviews, Appeals, and Compliance Cases.

A. Administrative reviews and appeals. An affected property owner may request a modification to a BES decision related to this Chapter via an administrative review with BES staff unless administrative review is limited by administrative rule. After the requestor has exhausted all BES administrative reviews, the requestor may file for an appeal with the Code Hearings Officer per Title 22 unless appeal is limited by administrative rule.

B. BES Code compliance cases. BES may file a case before the Code Hearings Officer under Title 22 to order compliance with City regulations. Any property owner who fails to comply with this Chapter or associated administrative rules may be summoned to a Code hearing. The Code Hearings Officer is authorized to order compliance with City sewer connection regulations, including site entry to construct a compliant connection to the public sewer.

17.33.090 Conflict.

Except as expressly provided by the City Council, this Chapter supersedes all ordinances and elements of ordinances to the extent that they are inconsistent with or conflict with any part of this Chapter.

17.33.100 Severability.

If any provision, paragraph, word, or Section of this Chapter or associated rules is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, and Sections will not be affected and will continue in full force and effect.